UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,362	04/06/2001	Stephen Gold	30014165 US	3922

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EXAMINER
PATEL, HARESH N

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	09/827,362	GOLD ET AL.
Office Action Summary	Examiner	Art Unit
	Haresh Patel	2154

-- The MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 October 2004</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

4a) Of the above claim(s) <u>1 and 9-27</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>2-8</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) <u>1 and 9-27</u> are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>06 April 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some *   c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/04, 10/27/04</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-27 are presented for examination.

Election/Restrictions

2.   Applicant's election without traverse of Group II, i.e., claims 2-8, in the reply filed on

10/27/2004 is acknowledged.

3.   Regarding the applicant's remark, dated 10/27/2004, "A Notice of Allowance is

respectfully requested with the facsimile from the Examiner dated 8/8/2004, indicating that an

election was needed to place the application in condition for allowance", examiner clarifies that

the facsimile by the examiner (Haresh Patel) to the attorney (Mr. Allan M. Lowe), dated August

8, 2004, was to expedite the prosecution of this case. On August 8, 2004, the attorney and the

examiner also discussed the restriction/election requirement (of the facsimile) over the phone.

On August 8, 2004, no agreement was reached between the attorney and the examiner.

4.   As per applicant election of Group II invention (in response to the first office action,

dated 9/27/2004), examiner examines the claims 2-8.

5.   Applicant is requested to cancel claims 1, 9-27, of the non-elected inventions.

Specification

6.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

        The present title is not sufficient for proper classification of the claimed subject matter.

Information Disclosure Statement

7.   An initialed and dated copy of Applicant's IDS forms 1449, dated 10/22/04 and 10/27/04,

are attached to the instant Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

8.   Claims 2, 3, 5, 6, 8, are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

9.   Claim 2 recites the limitation "said functionality". There is insufficient antecedent basis

for this limitation in the claim. Claim 2 contains several different functionalities.

10.   Claim 3 recites the limitation "said server computer <u>entities</u>". There is insufficient

antecedent basis for this limitation in the claim.

11.   Claim 5 recites the limitation "<u>a said</u> client". There is insufficient antecedent basis for

this limitation in the claim. For examine purpose, examiner considers it as "<u>a</u> client".

12.   Claim 6 recites the limitation "<u>a</u> server computer entity <u>having a said</u> sub-network

address". There is insufficient antecedent basis for this limitation in the claim. For examine

purpose, examiner considers it as "<u>a</u> server computer entity <u>having a</u> sub-network address".

13.   Claim 8 recites the limitation "<u>a</u> said user account". There is insufficient antecedent basis

for this limitation in the claim. Also, claim 1 contains several different user accounts. For

examine purpose, examiner considers it as "<u>a</u> user account".

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

15.   Claims 2 and 8 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Loeb

et al. 6,332,124, Synapse Group Inc., (Hereinafter Loeb-Synapse-Group) in view of Davis et. al,

6,367,009, IBM (Hereinafter Davis-IBM).

16.   As per claim 2, Loeb-Synapse-Group teaches an account balancing method of selecting a

server computer entity for installation of a new user account to supply functionality to a client

computer entity (e.g., figures 3A – 3C, col., 3, lines 41 - 60), said method comprising the steps

of:

        identifying at least one said server computer (e.g., figure 2, col., 4, line 64 – col., 5, line

18) entity capable of providing functionality to said client computer entity (e.g., figure 1, col., 6,

lines 21 - 43);

        if said server computer entity is suitable for providing said functionality then opening a

user account with said selected server computer entity (e.g., figures 3A – 3C, col., 7, lines 33 -

63), said user account assigning said functionality to said client computer entity (e.g., figures 3A

– 3C, col., 7, lines 33 - 63).

However, Loeb-Synapse-Group does not specifically mention about performing test check that the identified server computer entity is suitable for providing functionality to the client computer entity.

Davis-IBM teaches performing least one test check (figures 6-9) that said identified server computer entity is suitable for providing functionality to said client computer entity (e.g., col., 10, lines 19 -54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Loeb-Synapse-Group with Davis-IBM in order to facilitate performing test check that the identified server computer entity is suitable for providing functionality to the client computer entity because it would help verify that the server computer entity is appropriate for the client computer entity. Performing the test would help verify that the server computer entity is appropriate for the client computer entity. The server computer entity being appropriate would help support the client computer entity to carry out client's request.

17.   As per claim 8, Loeb-Synapse-Group teaches the following:

        installing an agent onto a selected computer entity, said agent handling a said user account for said client computer entity (e.g., block 110, figure 1, col., 6, lines 21 - 43).

18.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loeb-Synapse-Group and Davis-IBM in view of Bommareddy et al., Avaya Technology Corp., 6,779,039 (Hereinafter Bommareddy-Avaya).

19.   As per claim 3, Loeb-Synapse-Group teaches the claimed limitations rejected under claim

2. Loeb-Synapse-Group also teaches selecting a server computer entity amongst a plurality of

the server computer entities aggregated in a group (e.g., block 210, figure 2). However, Loeb-

Synapse-Group and Davis-IBM do not specifically mention about uniqueness check.

Bommareddy-Avaya teaches running uniqueness check amongst a plurality of server computer

entities (e.g., col., 4, lines 21 – 54). It would have been obvious to one of ordinary skill in the art

at the time the invention was made to combine the teachings of Loeb-Synapse-Group and Davis-

IBM with Bommareddy-Avaya in order to facilitate uniqueness check amongst a plurality of

server computer entities because it would help verify that all the servers are unique in the group

of servers. Checking that the server is unique would help avoiding duplicate servers in the server

group.

20.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loeb-Synapse-

Group and Davis-IBM in view of Yu, IBM, 6,351,775 (Hereinafter Yu-IBM).

21.   As per claim 4, Loeb-Synapse-Group teaches the claimed limitations rejected under claim

2. Loeb-Synapse-Group also teaches selecting a server computer entity amongst a plurality of the

server computer entities aggregated in a group (e.g., block 210, figure 2) and the server computer

entities holding a new account (e.g., figure 3C). However, Loeb-Synapse-Group and Davis-IBM

do not specifically mention about identifying which of a plurality of computers are valid

computer entities. Yu-IBM teaches identifying which of a plurality of computers are valid

computer entities (e.g., col., 3, lines 18 – 47). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to combine the teachings of Loeb-Synapse-

Group and Davis-IBM with Yu-IBM in order to facilitate identifying which of a plurality of

computers are valid computer entities because it would help know which computer entity among

the plurality of computers is valid/present to support functionality for the client. The

valid/present computer would help support the new account.

22.　　Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loeb-

Synapse-Group and Davis-IBM in view of Chung et al., 6,470,389, Lucent Technologies

(Hereinafter Chung-Lucent).

23.　　As per claims 5 and 6, Loeb-Synapse-Group teaches the claimed limitations rejected

under claim 2. Loeb-Synapse-Group also teaches selecting a server computer entity amongst a

plurality of the server computer entities aggregated in a group (e.g., block 210, figure 2).

However, Loeb-Synapse-Group and Davis-IBM do not specifically mention about using sub-

network address. Chung-Lucent teaches comparing a sub-network address of at least one server

computer entity in group with sub-network address of said client computer (e.g., col., 3, lines 8 –

46), if a server computer entity having a said sub-network address as a sub-network address of

said client computer is not identified (e.g., col., 3, line 45 – col., 4, line 18), selecting any server

computer entity within group regardless of its sub-network address (e.g., col., 4, lines 9 – 58). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

combine the teachings of Loeb-Synapse-Group and Davis-IBM with Chung-Lucent in order to

facilitate comparing sub-network address of a server and a client and selecting any other server

when the compared sub-network address is not identified because using the sub-network

comparison would help determine which sub-network the client and server belong to. Assigning

any other server from the server group would help handle the functionality for the client to be

carried out even if the sub-network address is not identified. Having at least one server available

to process the functionality for the client would help support user account.

24.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loeb-Synapse-

Group and Davis-IBM in view of "Official Notice".

25.   As per claims 7, Loeb-Synapse-Group teaches the claimed limitations rejected under

claim 2. Loeb-Synapse-Group also teaches selecting a server computer entity (e.g., block 210,

figure 2). However, Loeb-Synapse-Group and Davis-IBM do not specifically mention about the

server computer entity having a maximum available data storage space.   "Official Notice" is

taken that both the concept and advantages of selecting server computer entity having a

maximum available data storage space is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to include selecting server computer entity having a maximum available data storage

space with the teachings of Loeb-Synapse-Group and Davis-IBM in order to facilitate selection

of the server based on the available data storage space because having more data storage space

would help better guarantee of space for storing the data into the data storage. For example,

Lutterschmidt, 6,356,947, discloses selection of a server based on the most available resources of

the server (e.g., col., 5, lines 21 – 52). The server with the largest available data storage would

help store the data for the user account.

Conclusion

26.   The prior art made of record (attached form PTO-892 and applicant provided IDS cited

arts) and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The

examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to

8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

January 20, 2005

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100